

To the KING's most Excellent MAJESTY.

The Humble Petition of ROBERT, Earl of YARMOUTH,

SHEWS,

That the Green-wax-Fines, Profits, and perquisites of Courts and Offices, one year with another, amount to 431714l. and upwards, as appears by the Case and Proposal annexed. That Officers, in contempt of several Statutes in force, deceive your Majesty of the profits thereof, enrich themselves, and oppress your Subjects thereby. That the Officers ought to pay to your Majesty what they receive upon Fines and Forfeitures from your Subjects, because they were originally establish'd to support the Dignity of the Crown, and to quicken the execution, which is the life of the Law; But your Majesty (as things are now managed) neither gets your duty, nor grateful acknowledgments in lieu thereof. That the management of these profits rests wholly in Officers, so as the Judges cannot tell what they do; and the Officers are charged with the wilful breach or neglect of their Oaths and duties; 1st. by the Statute made in the 22d. and 23d. years of your Majesty's Reign, cap. 22. 2dly. by several Judgments obtained against them by the Farmers of the Law-duty. 3dly. by the Reports of your Majesty's Attorney-Generals, which say, 1st. That great abuses are actually practiced, and ought to be remedied. 2dly. That the discovery thereof is good service, and ought to be liberally rewarded. 3dly. That the Orders proposed seem reasonable in the main, to prevent the abuses, and advance your Revenues; And whereas the Statute, 18 Edw. 3. impowers all prudent ways to be used, to procure your Majesty's profits: The Petitioner now (after seven years great charge and pains, with the discoverer, in maintaining your Majesty's Rights) appeals to your Majesty, (the premisses consider'd) whether 'tis prudent to leave the Officers voluntarily to reform themselves, or to subject them to the methods proposed, which will compel them to do justly, or be an Evidence to convict and punish such as do otherwise: seeing the Law hath provided but two punishments, (viz. Corporal and Pecuniary) to subdue Offences against your Majesty, and to preserve peace amongst your Subjects; And, most Offences being Bailable, when Recognizances are smother'd, it makes Criminals more Insolent.

The Petitioner therefore humbly begs, That your Majesty would be graciously pleas'd to appoint the hearing and debate of the Case and Proposal annex'd;

And the Petitioner shall ever pray, &c.

The Case of Percival Brunskel, Surveyor of your Majesty's casual Revenue of Green-wax.

SHEWETH,

That the said Brunskel petition'd your Majesty for a grant of the Fines and Forfeitures, upon *tax quams*, and *capias pro Fine*, and was referred, about October 1674. to the Lord Chief-Justice North, when Attorney-General; who reported, amongst other things, That the small Fines and Amerciaments in all Courts were wholly neglected; which, if looked after carefully, would be of a considerable value; The Petitioner, if your Majesty pleas'd to favour him, would best find his Reward for so useful a discovery, by an Employment therein. This Report put him upon petitioning to be Surveyor of this Revenue; but when his Lordship was directed to draw an Instrument for your Majesty's Service, pursuant to his own Report, refusing to do it, the Lord Treasurer referred the matter to Sir Charles Harbord, who reported, amongst other things, That he hath conferred with the Protho-notaries before the Lord Chief-Justice North and the Petitioner, and found it agree'd, That all Fines and Amerciaments of Courts were due to your Majesty. Upon this the Lord Chief-Justice North, in behalf of his Officers, gave his opinion to the Lord Treasurer, That all that need be done for the better management of your Majesty's profits, in relation to the Fines and Forfeitures arising in the Court of Common-pleas, might be by appointing an Officer, 1st. that might yearly take the Accompts of the Protho-notaries, whereby there will be a comptroll upon them, and they would be bound to pay the Moneys in their hands as your Majesty should appoint. 2dly. that they might take care that Process and Estreats be duly made in all cases that concerns your Majesty; and that no composition be made to your Majesty's prejudice, whereby the Informers (that pocket up your Majesty's share and proportion, in prosecution of penal Laws) would have some cheque upon them, and the Officers of Court would be obliged to do their duties.

Attorney-General North's Report.

Sir Charles Harbord's Report.

Lord Chief-Justice North's Opinion.

The said Brunskel objected against it, because the Officers may account as they please, and a method is not proposed to charge the Officers if they should at any time neglect, conceal or withdraw your Majesty's Fines and Profits. The business stuck upon that point, until Sir William Jones, amongst other things, reported (upon a state of the Officers sinister practices) That many were true, and fit to be remedied, and the discoverer thereof deserved a liberal Reward. The Officers (to hinder Orders, and all due encouragement to be given to the said Brunskel, pursuant to this Report) under-hand represented him as a Projector; That the Revenue was small, and of no value, and oppressive to your Subjects, whereupon your Majesty order'd the business to be heard in Council, after your Majesty had an account of the same Revenue from Ireland; and receiving the account about April 1681. the said Brunskel, upon a hearing, by an Order of Council was constituted Surveyor; and petitioning for Orders, this present Attorney General reported, amongst other things, That great abuses were practiced by Clerks, and it was fit that rules should be made, that your Majesty might not be injured. The Lords Commissioners of your Majesty's Treasury sent that Report, with their Letter, to the Judges and Barons, to make apt Orders for your Majesty's Service; and the Judges and Barons met upon it at Serjeants-Inn in Fleet-street, where the Lord Chief-Justice Pemberton declared, in the presence of them all, (*nemine contradicente*) That your Majesty had no such Revenue; That all things stood right and well, and there needed no Orders, and dismiss'd the said Brunskel from all further Solicitations therein; whereupon several

Sir William Jones's Report.

Sir Robert Sawyer's Report.

great

Why Fines and Forfeitures (in divers cases) of 40 l. due to your Majesty, be mitigated to 5 l. or 2 l. and the parties in that case made to pay 7 l. 8 s. or 9 l. and the poorest Subject 50 s. or 3 l. as Fees for their discharges, against the tenure of that Statute, 20 Ed. 3. cap. 2. And why the exactions are not punished by the Stat. 3 Ed. 1. cap. 26, 30.

Quest. 14.

Why your Majesty's Subjects upon whom Fines or Forfeitures appear to be vexatiously imposed, and prosecuted by the Officers, may not be discharged by Order of Court; and when they appear to be in *terrorem*, or to deserve an *ex parte* composition, why the parties, after they be cited into the *Exchequer*, may not be permitted to compound for the same, by Licenses directed into the Counties, and be admitted to pay what they may be able, and be discharged thereof by an Order, upon producing the Commissioners Receipt, and the writing it to the Court of *Exchequer*, without the chargeable formalities of pleading, motions, suing out *quittum*, or the like, or in some such like case and cheap methods?

Quest. 15.

Why divers innovated and new-invented ways of proceeding be received and practiced, more particularly Writs called *ac etiam Bill*, whereby Plaintiffs be encouraged to commence Suits, to increase the Fees and perquisites of Officers, (being at liberty to lay their demands as high and vexatiously as they please to accomplish their ends, by squaring advantageous agreements out of the Defendants upon Arrests) and afterwards to deceive your Majesty of your Fines or Duties, (ever paid before process for the Arrest issued out) according to the full debt or demand, which hindered Plaintiffs to hold Defendants to unreasonable Bail, by exceeding their real demands, or causes of Action? And why the matters and methods proposed, warranted by the Statute 18 Ed. 3. Stat. 4. and grounded upon divers other good Laws and Statutes, be rejected, and other reasonable and good methods be not proposed and settled, to reform the abuses and sinister practices of the Courts, as your Majesty's Attorney-Generals have reported and advised, for your Majesty's service, and good of your Subjects? But receiving no answer thereto, be presented to the Lords Commissioners several Abuses, with Orders particularly proposed to remedy them, to the effect following:

Whereas all proceedings are signed by the head-Officers, before any Attorney or Solicitor be permitted to do any thing therein; so as the Judges and Officers cannot be defrauded of their Fees and perquisites, in case the same be not recorded; And whereas Actions and Informations popular have been wholly neglected of late years, to be effected into the *Exchequer*, to charge the Accomprants therewith; and if the Officers in other cases should be remiss to record or effect any thing, (unless subjected to Orders) the frauds and concealments will ever be practiced by not observing to effect duty, as the Stat. 51 H. 3. & 7 H. 4. cap. 3. directs.

That the Surveyor and his Deputies may have the like cheque to bring in all your Majesty's profits as the Officers have for theirs: keeping in like manner a settled Office in or near the Seal-Offices of every Court, for the convenience of Attorneys and practitioners to repair unto; and then he will be empowered to charge the Officers, in case they neglect to effect or record any thing.

Whereas the Officers oppress poor people, by running them to the Utlary, and putting them to 3 or 4 l. charge in the *Common-Pleas*, where the duty is but 6 s. 8 d. upon judgments *quod capiamur*, and to 10 l. in the *King's Bench*, being forced to appear personally:

Abuse.

Order.

Abuse.

Order.

Abuse.

Order.

Abuse.

Order.
Abuse.

That Fines and Amerciaments be taxed or added to the Costs of Suitors, upon obtaining Judgment; and that they or their Attorneys, before the Judgments be signed, or Executions be awarded, give security to pay to your Majesty so much as your Fine or Duty included in the Costs may amount unto, as soon as any thing can be levied or recovered thereon; and by this means the Statute 25 Ed. 3. Stat. 5. cap. 19. & 33 H. 8. cap. 39. which enjoys your Majesty to be satisfied in the first place, will be fulfilled, and the poor people freed from paying more than the duty, and your Majesty will be secured of your Fines, which are lost very often by the Defendants death, or incertainty of habitation, or wrong additions.

Whereas Clerks of Assize, Peace, Allocations and their Clerks, for Bribes or Rewards, spare the Fines and Forfeitures of notorious Offenders; also, excuse jurors non-appearance, and the like, without the Judges orders or privy: whereby the Justice are supplied with tales *de circumstantibus*, which Under-Sheriffs, at the instance of corrupt Plaintiffs or Defendants, may have packed, there being little or no time to enquire of their credit to as to challenge them; And whereas Clerks and Solicitors, contrary to the Stat. 3 Jac. cap. 7. practice in Attorneys Names, and are trusted with Fines, who may imbezle the same upon agreement with the Offenders, and defraud your Majesty of the Fine or Forfeiture.

That the Judges-Marshal, and Clerks of the Peace, enter distinctly the parties Names (and such Fines and Forfeitures as the Judges or Justices may order to be discharged or mitigated) in a Book or Parchment-Roll to be kept for that purpose; and that the Judges and Justices set their hands to every Order therein: so as what may be done at the Assizes may remain with the head Judges-Marshal, to be perused by the Surveyor or his Deputies; And as to the Sessions being remote, that Duplicates may be transmitted by the Clerks of the Peace to the *Exchequer*, and that the Clerks of Assizes may deliver out Process to such only as are substantial practitioners upon Record.

Whereas Actions popular, and Informations *casu quodam*, be not filed before the process for Arrest be sued out, as the Stat. 18 Eliz. cap. 5. directs; so as persons and Officers, by neglect thereof, are at liberty to vex or trouble the Subjects, and to exact great sums of Money of them; and when they meet with persons who will rather stand a Trial, than comply with their demands; They do not afterwards file the Informations, whereby the Subjects can have no reparation for the damage sustained, nor your Majesty any benefit by compositions, in case agreements be made upon the Arrest. Furthermore the party is liable, *ad insolvendum*, to be sued and prosecuted upon the same Accompr, until the Informations be filed; also, by means thereof, confederates with the parties bring king penal Statutes, may after the Arrest antecedent and file Informations which are pleadable, in bar to the real Prosecutor, to acquit Criminals.

That the Statute be observed.

Whereas Bail-bonds for appearances are assigned over and prosecuted in the Sheriffs Names, whereunto Defendants can only plead to have off and delay the Suit, until they can move the Courts for relief; but as the Courts grant none without paying full costs, and giving security or Bail to the original Action, though the demand be large and additions, so as the great expence and trouble to see Counsel, Attorneys moving the Courts, and the difficulties (when all is done) to find Bail, especially if they live remote from London, forceth the poor people to disadvantageous agreements, notwithstanding the Statute 28 Ed. 1. cap. 11. (in force) provides, That not any shall assign or give up their right to another to sue; so as all these mischiefs proceed, 1. from the non-observance of that Statute. 2. by forsaking the old practice of suing Sheriffs as anciently, *quia non habemus corpora*, because the Fine was but 40 s. and Defendants were afterwards discharged thereof, or had mercy shown 3. by

great abuses of the Courts then practiced were stated by way of question; which the Earl of *Anglesey*, by your Majesty's command, delivered to Mr. Secretary *Jenkins*, to be referred to the Judges, signifying your pleasure, that the Officers might answer them in writing; That being not done, his Lordship advised the said *Brunkell* to petition the Lords Commissioners of your Treasury, that the Officers might answer these particulars in writing, Whether the grounds and reasons of opposing all methods proposed, for the due management of this Revenue, did not proceed from purchasing Offices? because the end and design thereof is, to acquire Riches; and the Officers greatest profits accrue by omitting to Record, Estreat or Levy, or by sparing Fines or Forfeitures, or issuing out Process in wrong Names, or deceptious additions, or making false Returns; or by respiting the payment in Accomptants hands, and keeping the Debtors long in Suit of Process, or by suggesting or creating great difficulties to persons before admitted, to compound, and afterwards making them pay great sums for their *Quittus* and discharges; and in that manner staying the Subjects off from applying to your Majesty's Courts for mercy. Furthermore, the Officers get little or nothing by Offenders condignly punished upon breach of penal Statutes, nor by Suits expeditiously ended and determined between party and party; so as their greatest profits arise by Offenders Acquittals, by Suits long delay'd, or pending, packing Juries or the like; Also, when a great deal goes out of the Subjects pockets into the Officers, and little thereof into your Majesty's, or any Subjects, as a Reward for good Service: These things make Offices sell at great rates; but the wise Lord-Keeper *Bacon* terms them the *sick state of the Exchequer*, in his Book entitled *Resuscitatio*; and cautions Sir *John Denham* (upon admitting him to be a Baron) to provide against them.

The Questions.

- Quest. 1. Why Offices be sold at dear rates, contrary to the Statute 12 *Rich. 2. cap. 2.* unrepealed, and the Officers be recorded to be admitted *gratis*; and why that Statute is not observed, seeing *Cook*, in the first part of his *Institutes*, lib. 3. fol. 234. saith, That *Justice cannot be administered, unless it be pursued*?
- Quest. 2. Why the Justices of Peace be not ordered to pursue the Statute 11 *H. 7. cap. 15*?
- Quest. 3. Why Executions be awarded, and Suitors permitted to reap the benefit of your Majesty's Justice, before your Majesty's Debts or Profits accruing thereby be secured or paid, contrary to the Statute 33 *H. 8. cap. 39.* and 25 *Ed. 3. Stat. 5. cap. 19*?
- Quest. 4. Why Actions popular, as well as Informations, be not filed and recorded before Process issue out, as the Stat. 18 *Eliz. cap. 5.* directs; and why Abstracts thereof, and of all Judgments thereon, be not certified into the *Exchequer*, to charge the Sheriffs and Officers to accompt for all Moneys levied and received thereon, and upon all compositions thereof?
- Quest. 5. Why Clerks and Solicitors be permitted to practice in Attorneys Names, contrary to the Stat. 3 *Jac. cap. 7.* and why they be intrusted with *Postes*, who may privately agree with Offenders for your Majesty's part, imbezle the Record, and defraud your Majesty thereof?
- Quest. 6. Why Amerciaments upon Sheriffs *Quia non habuerunt corpora* are not set as high as anciently; and why Sheriffs be permitted to assign and give up their right to Plaintiffs to sue Bail bonds, contrary to the Stat. 28 *Ed. 1. cap. 11*?
- Quest. 7. Whether Fines or Penalties were originally instituted to promote the due administration of Justice, and to quicken the execution of the Law, by punishing *vezatious* Plaintiffs, Defendants, Officers, and others, doing any manner of wrong, delaying Suits, or putting persons to any needless expence or trouble? And, seeing your Majesty is *sens Justitie*, whether it is not your Majesty's business to have all Offenders against your Self, State and Subjects, punished; also, your Mandates Rules and Orders obeyed? If it be, Why Officers be not appointed (*ex Officio*) in all your Majesty's Courts to take care of your business, as the Stat. 2 *H. 6. cap. 10* directs: so as Fines and Amerciaments accruing to your Majesty, upon Rules, Orders or Process disobeyed may be set, and duly recorded; being now wholly neglected, unless the aggrieved Suitors pay them for doing it, who are to have no part or share in the Fines and Amerciaments, having undergone trouble and charge enough to procure the Order or Process of Courts, and suffered deeply by the tricks and artifices of Under-Sheriffs and Officers; wherefore it cannot in reason be expected that they should voluntarily pay for it; And whether it be not for your Majesty's Honour and Profit, that every contempt of your Precepts (for example sake) be taken notice of; and that all such persons as delay or disturb common Right, which every Subject hath to your Majesty's due administration of Justice, should be punished as the Stat. 3 *Ed. 1. cap. 28.* directs?
- Quest. 8. In case prudent or reasonable ways or means to procure your Majesty's profits be used at this day, as alledg'd (as Stat. 18 *Ed. 3. Stat. 4.* directs) why are Attorneys (being bound by Oath and Duty to practice without deceit) compelled to carry all Proceedings to the head-Officers; also, to pay, upon signing thereof, all the Judges and Officers Fees, before the same be recorded; so as the head-Officers (who were Attorneys and Practicers themselves) trust not to their performances? And why your Majesty is denied to have the like cheque upon the Officers and Practicers, so as your Majesty may charge them when they withdraw or conceal any Fine or Profit, by not recording, sparing or not estreating the same, as the Stat. 51 *H. 3. & 7 H. 4. cap. 3.* directs; That the Officers concealing or withdrawing any of your Majesty's Fines or Profits, may be punished as the Stat. 33 *H. 8. cap. 39.* directs. And why the Officers of the Plea, and *English-side* of the *Exchequer*, should not be under the like sure methods to Record and Estreat, &c?
- Quest. 9. Why Liberties and Claims of Fines and Amerciaments be made and allowed according to the *Nomina villar*, or Information received from the Sheriffs; and why Sheriffs Returns, as to Liberties, and their Accompts of Fines and Profits levied or issued to them in Process, be admitted for true ones in the *Exchequer*: seeing they take their Informations from their Bailiffs, *de bene esse*, not regarding whether true or false, (being indemnified if any thing happen amiss?) And how it comes to pass, that Liberties are not better distinguished and known at this day: seeing the Stat. 13 *Ed. 1. cap. 39.* directs the Barons to deliver Rolls of Indenture thereof to the Justices in the respective Counties; and why the Stat. 12 *Ed. 2. cap. 5.* is not directed to be pursued?
- Quest. 10. Why longer days be generally given to all Sheriffs to accompt and pay your Majesty's Fines and Profits, then limited and appointed by the Stat. 51 *H. 3.* or any other Statute.
- Quest. 12. Whether Court-Leets be your Majesty's Courts of Justice, and the Fines and Amerciaments set, assessed and inflicted in all your Majesty's Courts of Justice do not belong to your Majesty, unless divested thereof by Letters Patents or Acts of Parliament? And why Indentures of such Issues, Fines and Amerciaments in Leets be not made and certified by Sheriffs, as the Stat. 14 *Rich. 2. cap. 11.* & 11 *H. 7. cap. 15.* directs? And why Bailiffs of Liberties do not accordingly, being enjoined to do all things required of Sheriffs, by the Stat. 27 *H. 8. cap. 24*?
- Quest. 21. Why Justices of Peace and their Clerks have wages allowed, without certifying their Estreats under their hands, as the Stat. 14 *Rich. 2. cap. 11.* directs? Why

3. by a new convicted writ called *de vi et contra iustitiam*, whereby Plaintiffs are encouraged to commence suits to create the fees and perquisites of Courts, being at liberty to lay their demands as high and vexatious as they please, to accomplish their ends by queering advantageous agreements out of Defendants, upon Arrests, and afterwards deceiving your Majesty of the fine or duty ever paid before the process for the Arrest issued out, according to the first demand; which hindrance Plaintiffs to oppress Defendants, by holding them to unreasonable Bays, by exceeding their real cause of Action as now; and whereas concepts upon Rules, Orders, and process be not duly Recorded, Set, or imposed at all, unless poor aggrieved Suits appear with Artifices and tricks of Officers, add to their own miseries, by paying the Officers (who are bound *ex officio*) to do it, and whereas the Subjects are made to pay 10 s. for every contempt or non appearance in equity, which is concealed from your Majesty.

That the head Officers in every Court, to whom it belongs, may keep an exact Bill of Pleadings, and Record all concepts therein as soon as committed, and let the fine or Amercement presently, taking it *pro-confesso*, if the Person, or Officers offending at the day given, or before, do not appear and discharge himself, that he is guilty. So as the Head Officer may Record the contempt, and let the fine without regarding whether the Party grieved, prosecute or not, it being your Majesty's business; and the agreement between the grieved Party and Officer offending, is not an expiation of the Crime or contempt: seeing the escaping unpunished, is an encouragement to delay Suits and retard proceedings; and further, that the fine be paid as anciently, upon the Original first sued out.

Whereas every Court Lect or Turn, is Your Majesty's Court of Justice; and the Fines and Amercements set, imposed, and assessed, therein belong to Your Majesty, unless Your Majesty or Your Royal Progenitors have granted the same away:

That the Bailiff, Steward or Sheriffs, return Duplicates of all such Fines, and Amercements, to the Justice of the next Sessions of Peace, as the Statute 11 H. 7. cap. 13. directs, and that the Justices transmit the duplicates thereof, to charge the Accompanants in the *Exchequer*.

Whereas upon Sheriffs Accomps, Wages for the Justices of Peace and their Clerks, be allowed to Sheriffs, without examining whether they attend the Sessions or not; contrary to the Statute 14 R. 2. cap. 11:

That the Statute be observed in that point, and that the Sheriffs aver upon their Oaths, that such Justices and Clerks, (for whom they crave allowance) did actually attend at Sessions; And that the Clerk of the Peace himself who is deputed by the *Justices of the Peace*, may not be reputed as the Justices Clerk, nor within the meaning of the said Statute.

Whereas the Foreign appeller, or such Officers to whom it belongs, do adjust all or most Claims upon Information of Sheriffs, who take their Information from the Justices, *de bene esse*; not regarding whether true or false, having taken Security to indemnify themselves if they prove amiss: And whereas the Barons have ordered that such Towns as be but part within Liberties shall be struck out of all Claims, which cannot be observed, unless the Towns were better distinguished and known, then as now by such ways of Information. And whereas the Barons daily receive the same from the Sheriffs in the *Exchequer*, contrary to the Barons express Orders: That Roles of Claims in every Court, distinctly be produced to adjust the same by; And that they be supplied in all points wherein found deficient, and that more penal Orders be made for Bailiffs to Accomps as aforesaid.

Whereas poor people admitted to an assize composition, for your Majesty's Fine or Duty, are not freed from excessive charges and trouble of formal Pleadings, Motions Suing out *quittus* and the like; So as they are by reason thereof, deterred from applying to the Court of *Exchequer* for mercy, and forced underhand to Bribe Officers for Respite, and to make false Accords, until they intently become insolvent; and bring themselves and Families to be maintained at the Party's charge:

That poor people, if their case appears upon Petition and Proof, to deserve mercy, may have Licence granted to compound into the Counties where they live; And be discharged (upon the Committioners Acquittance produced of the Composition-Money paid) by an Order of the Court without more ado, or further payment.

This is accustomedly done in actions popular and Informations, and your Majesty for the maintaining Branches of the *Green Wax*, may erect an Office for the Subjects case, to compound in nature of the Alienation Office: Which *Q. Elizabeth*, by advice of her high Treasurer and Council created to free her Subjects from the chargeableness of proving the values of their Estates upon Oath in the *Exchequer*; Motions by Council, Accomps, compounding, and Suing out their *quittus*; for the Fines of Alienations, being then a Branch of the *Green Wax*; Whereby her Subjects were freed from that charge, and paid one half less then formerly; yet her Majesty's Regis was advanced from 2000 L. to 9000 L. *per annum*.

Whereas the Plea and *English* side of the *Exchequer*, differ from the money side; and stand in as much need of Reformation as any of the other Courts:

That the Officers thereof, may be subjected to the like Orders as the Officers of the other Courts.

Whereas the process for levying this Revenue, issues in *Hilary* and *Trinity* Term, returnable in the subsequent Terms; at which times the Sheriffs are to account and pay the same, as the Statute 31 H. 3. directs. That longer days be not given to Sheriffs, and Officers to pay your Majesty's Fines and Profits then limited, and appointed by that Statute, or any other, unless upon extraordinary occasion, proved and attested by the Accompanants Affidavits.

Furthermore that Accompanants give the Surveyor or his Deputy notice of such Appraisals as be not in open Court, or out of the usual times or places of Accomps; also that notice be given to the Attorney General, or the Surveyor or his Deputies of all compositions, not made in open Court.

In case the Orders here humbly proposed, be not pursuant to the Statute 18 E. 3. which enjoys all reasonable ways to be used to procure your Majesty's Profits; The Petitioner humbly Prayed that the L. with in this great Widows, would please to make such Orders as their Lordships thought fit for your Majesty's Service.

Th: not be made of any force, without being made rules of the respective Courts; and in the mean time, they seem reasonable: and therefore he conceived the best way, was to transmit them to the Judges of the several Courts, to advise upon them, and settle therein as shall be most for your Majesty's Service.

It appears by the several transactions aforesaid, that the Petitioner hath done his utmost endeavour to procure Orders to advance your Majesty's Revenues, which consists of these following particulars. 1. Forfeited Recognizances estreated in *England and Wales*, amount to the sum of 100000 *l. per annum*, whereof your Majesty gets little, or nothing; because the Parties being unable to pay the whole, cannot be admitted to compound, and be discharged upon paying what they are able; without the trouble and charge of Motions, Pleading, Compounding, and Suing out their *quietus* in the *Exchequer*; which gives the Officers opportunity to prey upon poor peoples necessity with Respits and continuance of Fees, to stave off the execution; And as for the Recognizances of solvent persons, when they are compounded, your Majesty gets but 5 *s.* or 2 *d.* In lieu of a Duty of 40. *l.* where the Officers gets 3 *l.* at least, and in divers cases 7 or 8 *l.* for withdrawing and concealing them, which may amount to more then such as are estreated. Therefore it's humbly proposed, that an Office be constituted and managed as the Alienation Office, to give the Subjects an easy and cheap way of compounding, upon producing Certificates from two Neighbouring Justices of the Peace as to the Parties abilities; and as to the crimes from the Justices before whom the Fines may be set. 2. The issues of Jurors forfeited *communibus annis* in all Courts throughout the Kingdom amount at least to 8000 *l. per annum*, and if Rich men be excused, the Jurys must be supplied by the poor and indigent Freeholders, which occasions corrupt verdicts. 3. Fines and Amerciaments were originally established and given to your Majesty *ut fons Justicie* to support and quicken the execution which is the life of the Law; and ought to be duly let inflicted and prosecuted, being due, as resolved in *Vaugh. Case*, in *Cooks Reports*, for every contempt neglect, or disobedience of process: And if it were done, it would not only expedite Suits, but bring in 10000 *l. per annum* profit to your Majesty. (As for instance) when a *Habeas Corpus* is directed to the Sheriffs to bring up the body of a Defendant. He now generally stands out in contempt to the 3 or 4 process, and forceth Parties grieved to 20 *s.* charge for Motions, and to pay the Judges and Officers Fees, for every *Habeas Corpus* 10 *s.* and upwards, besides the trouble thereof. Whereas if a good round Fine or Amerciament, were set upon the first contempt or disobedience; though afterwards upon reasonable cause remitted or mitigated, it would prevent the future expence for as things are now managed, it's not the Parties offending; but your offended and grieved Subjects, that are punished; because Officers do not *ex officio* see the Fines and Amerciaments for your Majesty's Profits, duly inflicted and prosecuted, nor take any care thereof, unless the Party grieved Fee them to do it; Their chiefest care being how to enrich themselves, by multiplying Writs or process, Orders, Motions, Continuance, Fees and the like, to spin out causes in Law and Equity, seven or eight years. 4. Amerciaments in *Misericordia* amount at least to 1000 *l. per annum*, and are to be set and asserred according to the meritts of the offence, by Neighbours who best know the Parties and their offences, as the Statute 9 *H. 3. cap. 14.* directs. And the original Writs at this day, command the Sheriffs to take Security or pledges for them, and are duly paid and received in *London*; and were as duly taken care of in the Superiour Courts, as appears by *Rastals new natura Brevium* and *Beechers Cases*. And the present Attorney General hath reported that the antient practice is best; because persons for fear of punishment or disgrace, avoided litigious and frivolous Suits. 5. Fines and Amerciaments, set before the Justices in eyre, commissioners of Sewers and Clerks of the Market are now smothered, and antiently the Estreats thereof amounted to 1000 *l. per annum*. 6. Fines and Amerciaments set in Mannor, Courts, Turnes, Leets, and Py-powder-Courts were antiently duly estreated, and amounted to 1000 *l. per annum*. And the Liberties and Claims were known; but now the Officers know nothing thereof, but as under Sheriffs inform them, whereby your Majesty and the private Lords may be deceived thereof. 7. Fines of the Ecclesiastical Courts were duly received to your Majesty's use, as appears by the many grants to particular persons to be the receivers thereof; and may really be computed at 6000 *l. per annum*. And now only a few Fines upon excommunications are certified to the *Exchequer*, and all the rest concealed. 8. The penalties upon Actions popular Information. and Indictments prosecuted, amount to 20000 *l. per annum*. 9. Fines upon pleas of Lands, have no dependance upon the Court of Wards, and were antiently *Green-Wax*; It's the Surveyors duty therefore to inform your Majesty, that the Commissioners upon Fines and Recoveries levied, and suffered of Rents; certain Annuities and all Estates where the values charge themselves, take the full duty, which demonstrates they have no power to abate; Yet when informed that Estates are worth 100 *l. per annum*, where the duty is 25 *l.* they rate them as 25 *l. per annum*, and certifie upon the back of the Writs, that the values are affirmed not to exceed it, which is a formal deceit; so abate without perticular instructions from your Majesty, or the Lords Commissioners of your Majesty's Treasury 18 *l.* 15 *s.* at least in every duty of 25 *l.* likewise upon double assurance, they abate 41 *l.* 5 *s.* in every duty of 50 *l.* seeing a recovery, is to pay as much as a Fine by the Statute 32 *H. 8. cap. 1.* Thus your Majesty's Revenue is lessened in this very Branch, upwards of 30000 *l. per annum*. And it's impossible for Mr. Middleton and this Surveyor being commissioners to improve the Revenue while the old Commissioners rate: Because Attorneys carry most Writs to them, and few come to the said Mr. Middleton and *Brunskels* hands, before the Fines and divers Fees be paid thereon; so as to stop them, would breed great Clamour, and be of a dangerous and ill consequence to such as passed

Fines & Recoveries upon emergent occasions; besides impossible to know by view of the Writs, whether the rates be proportionably set according to the values, or what information is given to them at the time of rating; for that reason the said Mr. Middleton and Brunskel proposed rates to advance the Profits 1000 l. per annum, over and above all Pensions, Salaries and Charges, and to take their Salaries or Rewards out of the Improvement; and whereas the old Commissioners alledge that the Subjects will go by-ways, or find out cheaper ways of assurances, to your Majesty's prejudice; Those Alligations appears to be very fictitious. 1. Because Fines and Recoveries Bar-dowers and Claims, after 5 years non Claim, and destroy uses; and they are Bargainees, Mortgagees, and persons Securities bestowing their Children in Marriage and the like, not one in twenty are levied or suffered, but upon a present necessity or future prospect, that they cannot be avoided. 2. The Judges and Lawyers ought not to allow Estates, conveyed by Lease and Release, and private deeds not inrolled upon Record; for the Statute 27 H. 8. cap. 16. provideth that Estates shall not pass, alter or change from one to another, unless Inrolled; To the end the Lords may know on whom to call or their Fines, Reliefs, Heriots, Respits of homage, being an antient branch of the Green-Wax, fully saved to your Majesty by the Statute 12 of your Majesty's Reign cap. 24. and now wholly neglected; Though computed in Ireland at 3000 l. per annum, therefore in England fifteen times more. 3. All conveyances that hinder your Majesty or chief Lord, of any Fine or Duty, may be avoided, as fraudulent by force of the Statute 27 H. 8. cap. 10. and 13 Eliz. cap. 5. and the Lawyers and Attorneys advising them, are punishable for the breach of their Oaths and Duties, being bound to maintain and defend your Majesty's Rights by the Statute 1 Eliz. cap. 1. also they are punishable for deceipt, by the Statute 3 Ed. 1. cap. 29. and at Common Law. 4. If Parliaments find out cheaper ways of Assurances; They ever propose and settle some thing more considerable by way of Exchange in lieu of your Majesty's Duty, to procure your Royal assent thereto; but the Commissioners will lose their employments and Salaries, and the Judges Officers and the Attorneys their Fees in the common Pleas being 4 l. upon a Fine, upon a Recovery with treble voucher 15 l. upon single vouchers seldom less then 7 or 8 l. whereof they never abate, though the Estate be under value; Furthermore an improvement will certainly accuse them of ignorance, or willful breach of their Duties, which being a forfeiture of their employments make them zealously oppose an improvement. 5. The Subjects charge and trouble of proving the values of Estates, compounding, pleading, and suing out quietus in the Exchequer, is abated by your Majesty's gracious continuance of the Alienation Office; but this Duty stands in Statu quo not altered by your Majesty's consent or privy. Therefore your Majesty ought to give it, or grateful acknowledgements from your Subjects for abatement thereof; but Attorneys and their Clyents by a long continued ignorance of the Duty, and corrupt practicies, are so far from making grateful acknowledgements, that they say the Fine or Duty is discrefionary as the Commissioners please, and their justifying themselves by a long continued practice, rather agravates then lessens their Crime; because prescription cannot bar your Majesty to take your Duty, nor ignorance excuse them from punishment, if your Majesty's Attorneys should prosecute them for withdrawing or wronging your Majesty of your Revenues; but these Duties upon Fines and Recoverys, Relief and Respits of homage, may be used as kindly and tenderly as your Majesty thinks fit. The Surveyor left them out of his methods for the management of the other Branches of Green-Wax; because they are esteemed as great clogs upon Common assurances, as the customes are upon Trade, the Commissioners being bound by Oath and Duty to maintain and defend your Majesty's Rights, ought not to abate without your Majesty, or the Lords Commissioners of your Majesty's Treasuries directions; because the Duty established is certain according to the annual value of Estates, and all Estates have a certain value for *id certum vocari quod certe reddi potest*. And untill your Majesty or the Lords Commissioners of your Treasury, give the Commissioners particular instructions how to rate when they have discrefionarily informed themselves of the value, they ought not to abate; (as for instance) if they find Estates worth 100 l. the Duty of presine is 10 l. certain; and your Majesty may direct the Commissioners to abate what your Majesty thinks fit: And so proportionably in all cases; for without some such Orders or instructions, they ought not to act, being bound by Covenant to pursue the Lords Commissioners Orders; therefore the Surveyor appeals to your Majesty whether his or the old Commissioners Salaries ought to be stopt, to defray the Earl of Plymouth's Pension charged upon the Office. Now whereas all or most of the Abuses spring from buying and selling of Offices; and the Lord Chief Justice Cook saith that Justice cannot be duly administred, unless the Statute 12 R. 2. cap. 2. prohibiting the Judges to sell Offices be duly observed; and whereas the Statute Annis 18. and 20. Ed. 3 hinders them to take Fees, Robes or Rewards, of any but your Majesty; And the Statute 5 Ed. 6. cap. 16. impowereth them but to do as formerly, which was to admit the most honest and experienc'd Clerks to Offices gratis; and for that reason, the Officers that pay 7 or 8 years value, are Recorded as admitted gratis: Now as that Statute saves a power to such as have Estates in Fee to sell Offices, your Majesty being so seized *Jure Corona* may sell or dispose thereof, as your Majesty in your Royal Wisdom thinks fit; And by establishing an easy and publick way to acquire Offices, your Majesty may prevent all private Guifts underhand contracts and bargains; It's therefore humbly proposed for your Majesty's Service. 1. That as the present Officers have paid 7 or 8 years value for their Offices, they may continue therein, and when they fall void, they may hereafter be suplyed with able and honest men, who may give Security to pay Termly to your Majesty in nature of first Fruits, one moyety or quarter part of the profits as they arise, for such time or Term of years as your Majesty thinkt fit. 2. That the Jury of the ablest Clerks, and Officers from time to time, may be Impannell'd to make Presentments of the names of such persons as be of sound and good reputation, and skill fitting to Succeed

succeed. And as they are written, proceed accordingly, without postponing any, unless incapacitated after the Presentment to enjoy the same. 3. That none be employed to execute as Deputy for another; but such as are named in such presentments. 4. that this extend not to any Office, where the Salaries are paid by your Majesty; but such perquisites as are paid by Suitors or others as incident or appendant to Offices by right. 5. In case any Office fall void in the Circuits that the Judges itinerant supply the same, and apply the Profits as they think fit, during that Circuit only. 6. That an exact Table of Fees adjusted by the ablest Officers and Records, due and belonging to every Office, be hung up in the respective Offices; and while Officers behave themselves well, though deputed but during pleasure, they may in no wise be displaced. 7. That for your Majesty's benefit and Subjects relief, there may be an Office erected in nature of the Alienation Office, for the easy and cheap compounding of Fines and forfeited Recognizances; Also to take care that the profits accruing thereby, and by the profits of the Offices, be duly paid, and answered to your Majesty for these reasons.

1. As *Q. Eliz.* Elected the Alienation Office for one branch, your Majesty may do the like for the remaining branches of *Green-wax*; For, *Ubi eadem ratio ibi idem Jus*; But the arguments are more forcible in this Case, because the remaining branches are many, and the benefit which may accrue thereby both to your Majesty and Subjects will consequently far exceed the Alienation-Office in every respect; and it's for your Majesty's Honour and Profit to give such Subjects as ought to have mercy shewn a legal and cheap way to obtain it; which will not only endear them to your Majesty, but hinder all indirect application to Officers. 2. The Judges of their own accords have alter'd the practice and course of Courts, to encourage Suitors, and encrease the Fees and perquisites of Officers: Therefore your Majesty, *a multo fortiori*, may alter the present course of Courts, to advance your own profits, and suppress the corruptions of Officers, for the ease of your quiet and peaceable Subjects; seeing your Majesty's alteration is warranted by Statute and Common-Law, Prudence and Precedents. 3. The Subjects will be effectually relieved from the *Exchequer*-formalities; also, from purchasing Offices, and paying great sums upon admissions; and the remedy will not only be effectual, but permanent, as appears by the continuance of the Alienation-Office, whereby that duty was improved to the Queens advantage, from 2000 *l.* to 9000 *l.* and by the continuance thereof at this day, the Subjects are relieved from great Fees and Exactions of the *Exchequer*; and notwithstanding the Commissioners abatements as aforesaid, it yields more profit than it did when managed by the *Exchequer*-Officers, because the Revenue goes through fewer hands, and the Officers are under effectual comptrolls to bring what they receive duly to account. 4. While Offices are sold as dear as they can be, Knaves (whose pocket sate generally better lin'd than honest mens, and consciences not so strait-lac'd to re-imburse themselves) will give most for them. Therefore, this easie and cheap way of obtaining Offices without depositing ready money, is proposed to take away all indirect means to be re-imburfed, and to enable Gentlemens Sons, great Sufferers in the late Intestine Rebellion, and poor honest men to obtain Employments; That all Officers having dependency upon your Majesty, may be obliged thereby not to deceive your Majesty, nor oppress your Subjects as now. 5. As all or most Offences areailable, the Judicial part of the Law is frustrated, if Officers fail in the executive part: Therefore, it's of a dangerous and ill consequence, that the Judges who are to punish the Officers corruptions, should be influenced by great sums of money upon purchases and admissions to connive thereat. 6. Your Majesty will be enabled thereout to enlarge the Judges and the Attorney and Solicitor-Generals Salaries, that they may acquit their private practice, and prosecute all popular Actions and Informations, and plead and maintain all Pleas of the Crown *gratis*, without trouble and charge to the Subjects agriev'd, who, like Silk-worms, now spin out the Bowels of their own Estates in Fees. 7. If your Majesty's necessities be not supplied with your ancient duties, which you may demand of particular Subjects, it puts your Majesty upon desiring new Impositions wherewith your Subjects are generally trxd. 8. The profits accruing by this Proposal will be in nature of a Copy-hold-Estate, where Fines are paid upon the death or forfeiture of the Tenant. And, that your Majesty may the better judge of the benefit and profit which will accrue by Offices, the Proposer humbly presents your Majesty with an additional account of the yearly values of some particular perquisites and Offices, according to a very moderate computation as follows:

Chancery.